

CITY OF MEMPHIS, SHELBY COUNTY, TENNESSEE
MEMPHIS CHARTER COMMISSION MEETING
October 30, 2007

CALL TO ORDER: Commissioner George Brown called the meeting to order at 3:10 p.m. The following members of the Commission, constituting a quorum, were present: George Brown Jr., Marsha Campbell, Sylvia Cox, Janis Fullilove, Myron Lowery and Sharon Webb.

Others in attendance include: Ricky E. Wilkins., The Law Offices of Ricky E. Wilkins, Steve Townsdin, City of Memphis Sr. Assistant City Attorney; Elbert Jefferson, Jr., City Attorney; Bridgett Handy-Clay, City of Memphis Open Record Coordinator; Professor Stephen H. Wirls, Rhodes College; among others.

The meeting began with prayer by Commissioner Webb.

MINUTES: Chairman Brown noted that copies of the minutes from the Commission meeting of October 11, 2007 had been circulated prior to the meeting and asked if there were any changes or corrections. With no changes, the minutes were approved as presented.

OPEN DISCUSSION: Chairman Brown encouraged the Charter Commission members to view a DVD on teamwork. He stated it is very important for the Charter Commission to remain focused and work together. He noted that he and Commissioner Lowery discussed the incident which occurred at the last Commissioner's meeting, and agreed that it is in the best interest of the Commission that it operates under firm protocol. Chairman Brown then called on the Commission's legal counsel to present a draft proposal on policies and procedures.

POLICY AND PROCEDURES: Mr. Wilkins thanked the Commissioners and stated he appreciates the opportunity to be a part of the team. He recommended that the Commission adopt Robert's Rules of Order for its standard of conducting meetings, and that they also establish a time frame and format to receive additional comments from the public. Chairman Brown notified the Commissioners that Councilman Chumney requested to speak via telephone to the Commission. After some discussion with the members of the Commission, Chairman Brown denied Councilman Chumney's request and suggested she be added to the agenda for the next meeting.

DISCUSSION OF TERM LIMITS AND RELATED ITEMS: Mr. Wilkins presented a report on term limits, staggered terms, runoff elections, and MLG&W. He stated term limits provide an opportunity for the public to limit elected officials terms in office and noted that there are no term limits at the legislative level or for state officials in the State of Tennessee. Mr. Wilkins stated that there are no "best practices" as it relates to term limits. Term limits are simply a matter of local preference. He indicated that some cities have adopted term limits for the Mayor and City Council members, while other cities

limit application only to the mayor. He suggested to the Commission if they consider adding term limits to the ballot, they should address which offices term limits shall apply. Commissioner Lowery noted that after an elected official has set out one term, they are allowed to run again.

Mr. Wilkins stated as it stands right now, the City of Memphis has an election for the Mayor and City Council members every four years. He stated if the public approves staggered terms for City Council members this will allow a turnover of some Council members every two years. He stated staggered terms allow continuity for new members to be oriented by previously serving Council member. He suggested the additional election coincides with state elections.

Next, Mr. Wilkins briefly discussed the issue of run-off elections. He stated in August, 1991 the Federal Courts entered a preliminary injunction against majority vote requirement for Mayor, City Court Clerk, City Judges, 6 at-large council seats and 2 at-large Commission of Education seats. In January, 1997 a permanent injunction was entered prohibiting majority vote/runoff for these city-wide election. This injunction will remain in effect until such time as the Federal Court rules otherwise.

Commissioner Lowery suggested the Commission take the advice of their legal counsel and not deal with the issues of runoff elections, but give citizens the opportunity to vote on staggered terms. Commissioner Cox asked what procedures would have to be taken in order to have the injunction removed. Mr. Wilkins stated he believes further litigation in federal court would be required to dissolve the injunction. Commissioner Webb inquired as to the benefits for an elected official if term limits were enforced. Mr. Wilkins stated he believes benefits are provided based on the time of service the person has with the city and on whether any such individual has any vested rights under the City of Memphis's pension plan. After much discussion concerning term limits, run-off elections and staggered terms, Chairman Brown asked the Commissioners to postpone voting on any decision concerning the above topics until they are further informed.

Next, Mr. Wilkins explained that he, Mr. Townsden and Professor Wirls met to discuss MLG&W. He noted the language in the City of Memphis Charter is clear as to the roles of the Mayor and the City Council relative to MLG&W. He reminded the Commissioners that MLG&W is a division of the City created by a 1939 Private Act of the Tennessee Legislature. He stated the Commission needs to decide whether to alter the powers granted to either party. Mr. Wilkins noted there is a Tennessee Attorney General opinion that states MLG&W assets can be sold subject to approval by the City Council, and there is neither a Charter provision nor state statute that gives the public the right to approve or disapprove of that sale. He then called on Professor Wirls and asked him for his comments.

Professor Wirls stated that he researched the city's Charter and outlined his finding in the report presented to the Commission. He stated the Charter grants all relevant administrative and supervisory power to the President, the Board of MLG&W, and in

some specific instances, the City Council. In closing, Professor Wirls stated the Charter mentioned nothing about the sale of MLG&W.

Mr. Wilkins stated that he is of the opinion the Mayor and City Council are acting within their powers set forth in the Charter. Chairman Brown stated that he thinks there are to be further examination of the Charter to determine whether or not the relationship between MLG&W and the City Council should be altered. Professor Wirls called the Commissioners attention to the outline within his report listed as MLG&W Board authority. He highlighted the provision in the Charter gives City Council members the right to oversee certain issues is there to make sure the MLG&W president and the Board of Directors make wise decisions for the division.

In addition to the discussion of MLG&W, Mr. Wilkins highlighted that his research concerning the cleanup of the City's Charter leads him to believe it is a massive undertaking that can not be done within a few months given current resources. He stated the Charter has not been revised since 1968 and based on the information that he has received from others who considered the task of cleaning up the Charter it will probably take at least a year to complete. Commissioner Lowery stated that he felt the clean up of the Charter is very necessary. Mr. Wilkins stated that he will meet with his team and discuss cleaning up the Charter in phases. Mr. Townsdin, explained the different parts of the Charter. He stated that besides the home rule amendments there are some parts of the Charter that date back to 1897. He stated only the Home Rule Amendments that have been passed by the voters are published in the Charter. In undertaking the effort to clean-up the Charter, the changes would have to be incorporated into the revised document. A comprehensive cleanup also means going back and looking at past court decisions.

Chairman Brown asked Mr. Wilkins to come prepared on December 6th to update the Commission on ethics, the cost and the specifics of cleaning up the Charter, and to further discuss MLG&W. There being no further discussion Mr. Townsdin advised the Commission of the necessary actions needed to be taken by the voters to make changes to the Charter.

ELECTION OF OFFICERS: Commissioner Webb recapped the Charter Commission meeting of September, 2006 and noted that it was decided that all elected officers would serve for one year term. Next, Commissioner Cox nominated Myron Lowry as Chairman of the Charter Commission and Commissioner Webb seconded the vote. The vote passed unanimously by all members present. Next, Commissioner Webb nominated Janis Fullilove as the Charter Commission Vice Chairman but Ms. Fullilove declined. Commissioner Campbell nominated Commissioner Brown but he declined. Commissioner Webb nominated Commissioner Cox, but the nomination failed for a lack of a second. Next Commissioner Cox nominated Commissioner Webb. The motion was second by Commissioner Brown, and passed unanimously by all members present. Next, Commissioner Webb nominated Commissioner Campbell as the Charter Commission Secretary and the motion was second by Commissioner Fullilove. The motion passed unanimously by all members present.

OTHER BUSINESS: Commissioner Fullilove made a motion to adopt Robert Rules of Orders as protocol for the Commission. The motion was second by Commissioner Webb and passed unanimously by all members present. Next, Commissioner Cox made a motion to continue receiving written feedback from citizens, review requests from individuals who want to address the Commission and answer the requests based on the Commission time and agenda. The motion failed for a lack of a second. The Charter Commission agreed to accept all emails from the public. Commissioner Brown made a motion that the Commission limit those persons coming to the Commission to those who want to express a view on agenda items i.e., MLGW, term limits, ethics and any other items which may properly come before the Commission. The motion was second by Commissioner Fullilove and passed by all members present.

ADJOURNMENT: There being no further business, Commissioner Lowery congratulated Commissioner Brown for his outstanding leadership and stated the next Charter Commission meeting is on December 6, 2007, at 3:00 p.m.

Respectfully Submitted

Bridgett Handy- Clay